

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4882 of 2004

ORAL ORDER:

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This writ petition is filed seeking a Mandamus declaring the proceedings in A.C.D. Dis.No.1/2004/87 dated 3.3.2004 as arbitrary, illegal, against the principles of natural justice and contrary to clause 17 of the A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973 and to set aside the same.

It appears, the petitioner was appointed as a fair price shop dealer of Chagantivaripalem village, Mupalla mandal, Guntur district by the second respondent vide order dated 20.12.2003 pursuant to the notification issued on 7.3.2003. The petitioner has commenced the business. Thereafter, it appears that the fourth respondent being aggrieved by the appointment of the petitioner as fair price shop dealer of Chagantivaripalem village, has filed appeal before the first respondent-Joint Collector. The first respondent disposed of the said appeal by order dated 3.3.2004, which reads as under:

“On perusal of appeal petition filed by the appellant, the Revenue Divisional Officer, Narasaraopet is hereby directed to finalise this case within 30 days from the date of receipt of the order and temporary arrangements may be made till the finalisation of issue.

The copy of the appeal petition filed by the appellant is herewith enclosed.

These orders pronounced by me on 3rd March 2004”.

Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that the first respondent could not have made over the matter to the Revenue Divisional Officer, Narasaraopet (third respondent) for finalizing the case and could not have directed for making temporary arrangements till such finalisation.

The first respondent did not furnish any reasons for passing such an order. It is the first respondent who is the appellate authority under the Control Orders has to decide the matter on its own merits, but he cannot make over the matter to the third respondent.

I am of the opinion that such a power to make over the appeal to the third respondent is not available to the first respondent under the Control Orders. The first respondent himself could have taken up the enquiry and disposed of the matter or in case he has any personal inconvenience, he could have asked the neighbouring Joint Collector to decide the matter or any officer of his rank in Guntur district itself. The making over of appeal to the third respondent for deciding is most unreasonable and such a power is not vested in the first respondent. Therefore, the impugned order is liable to be set aside.

In the result, the writ petition is allowed and the impugned order is set aside. The first respondent shall take up the appeal and dispose of the same on its own merits within a period of two months from the date of receipt of a copy of this order. Till such time, the authorisation of the petitioner shall not be disturbed. No order as to costs.

C.V.RAMULU,
J

Date: 30.10.2006

DA

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**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4882 of 2004

Date: 30th October, 2006

Between:

Kunchapu Ramalingaiah

.. Petitioner

And

The Joint Collector,
Guntur, Guntur district & others.

.. Respondents